

Message Text

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TO SECSTATE WASHDC 9444

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TAGS: SHUM, PINT, PA

SUBJ: JUDICIAL PROCESSING OF POLITICAL PRISONERS: PROGRESS ON
HUMAN RIGHTS

REF: A. STATE 306616, B. ASUNCION 5265

SUMMARY: PROGRESS IN HUMAN RIGHTS IN PARAGUAY HAS INCLUDED
THE RELEASE OF A NUMBER OF POLITICAL PRISONERS AND THE START
OF TRIALS FOR OTHERS ACCUSED OF SUBVERSION. A TOTAL OF SIXTY
ALLEGED SUBVERSIVES ARE NOW BEING SUBJECTED TO JUDICIAL
PROCESSING, A SYSTEM WHICH (UNLIKE OUR TRIALS) DOES NOT
LEND ITSELF EASILY TO OUTSIDE SCRUTINY. HOWEVER, THE EMBASSY
WILL BE GLAD TO ASSIST ANYONE WISHING TO LOOK
INTO THE PARAGUAYAN LEGAL SYSTEM WITH A VIEW TO BOSERVING
PROCEEDINGS, IF THIS PROVES FEASIBLE. END SUMMARY.

1. THERE HAS BEEN SOME PROGRESS IN PARAGUAY WITH RESPECT
TO HUMAN RIGHTS DURING THE PAST FEW MONTHS. THE EMBASSY HAS
REGULARLY REPORTED THE RELEASE OF A NUMBER OF POLITICAL PRISONERS,
AND WILL CONTINUE TO KEEP THE DEPARTMENT INFORMED AS FURTHER
EXPECTED RELEASES (GENERALLY UNPUBLICIZED) COME TO ITS
ATTENTION. THIS MESSAGE SUMMARIZES THE CURRENT
SITUATION WITH REGARD TO THE JUDICIAL PROCESSING OF POLITICAL
PRISONERS AGAINST WHOM THE PARAGUAYAN GOVERNMENT BELIEVES IT
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CAN MAKE A CASE, A MOVE LONG SOUGHT BY THE USG AND OTHERS
INTERESTED IN IMPROVED HUMAN RIGHTS PERFORMANCE.

2. IN DECEMBER 1975, THE GOP BROKE WITH TRADITION AND
BEGAN THE CRIMINAL PROCESSING OF A GROUP OF 13 PERSONS DETAINED
IN 1974 UNDER THE STATE OF SIEGE (WHICH HAS BEEN IN EFFECT
CONTINUOUSLY SINCE 1947, PRIOR TO THE ADVENT OF THE PRESENT

GOVERNMENT). THE ACCUSED WERE CHARGED WITH VIOLATING TWO BROADLY WORDED CRIMINAL STATUTES: LAW 209, "DEFENSE OF PUBLIC PEACE AND LIBERTY OF PERSON", AND LAW 294, "DEFENSE OF DEMOCRACY". THESE LAWS ARE DESIGNED TO BE APPLIED TO SUBVERSIVE ACTIVITIES, INCLUDING MEMBERSHIP IN ORGANIZATIONS ADVOCATING THE VIOLENT OVERTHROW OF THE GOVERNMENT. THE JUDICIAL PROCESSING OF THESE 13 HAS BEEN SLOW MOVING. FIVE OF THE ACCUSED WERE RELEASED FROM PRISON LAST MONTH PENDING A DECISION IN THESE CASES, WHICH IS EXPECTED SOON.

3. THE GOVERNMENT LAST YEAR STATED ITS INTENTION EITHER TO TRY OR TO RELEASE ALL POLITICAL PRISONERS. IN OCTOBER 1976, 45 PERSONS WERE CHARGED UNDER LAW 209. THESE 45 HAD BEEN ARRESTED IN APRIL AND MAY 1976 FOR ALLEGED INVOLVEMENT WITH THE OPM TERRORIST ORGANIZATION. TO DATE FIVE OF THIS GROUP HAVE GIVEN DEPOSITIONS BEFORE A JUDGE. TWO WERE RELEASED BY THE JUDGE, WHO SAID THAT THE GOVERNMENT HAD NOT PRESENTED SUFFICIENT EVIDENCE TO WARRANT THEIR CONTINUED DETENTION. INCLUDED IN THIS GROUP OF 45 ARE THE FOUR CONNECTED WITH THE US DISCIPLES OF CHRIST'S FRIENDSHIP MISSION. IN DECEMBER 1976, THE THREE PRISONERS FORMERLY ASSOCIATED WITH IAF-BACKED PROJECT MARANDU, GLORIA ESTRAGO, VICTORIO VILLALBA SUAREZ AND MAURICIO SCHWARTZMAN, WERE CHARGED UNDER LAW 209 FOR THEIR ALLEDGED MEMBERSHIP IN THE ILLEGAL COMMUNIST PARTY OF PARAGUAY. THESE THREE WERE DETAINED IN NOVEMBER-DECEMBER 1975, AT THE SAME TIME AS PROJECT MARANDU'S DIRECTOR MIGUEL CHASE SARDI (WHO WAS RELEASED IN JUNE 1976). OF THESE THREE, MISS ESTRAGO WAS FREED FROM PRISON LAST DECEMBER 31. NONE OF THE THREE HAS YET MADE HIS OPENING STATEMENT IN COURT.

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4. ALL OF THE PRISONERS NOW BEING PROCESSED ARE REPRESENTED BY COUNSEL. SOME 40 OF THE ACCUSED HAVE BEEN PROVIDED LAWYERS FREE OF CHARGE BY THE INTER DENOMINATIONAL CHURCH COMMITTEE FOR EMERGENCY RELIEF. THE REST HAVE ENGAGED THEIR OWN COUNSEL. THE JUDICIAL PROCEEDINGS ARE TAKING PLACE IN A CRIMINAL COURT IN ASUNCION.

5. THE PROGRESS OF THE JUDICIAL PROCEEDINGS IS BEING REPORTED REGULARLY IN THE LOCAL PRESS. AN UNUSUALLY OUTSPOKEN EDITORIA IN THE ASUNCION DAILY LA TRIBUNA ON FEB. 14 URGED THAT THE CASES BE PROCESSED MORE RAPIDLY AND THAT ALL OF THE REMAINING POLITICAL PRISONERS BE TRIED. THE EDITORIAL SAID THESE MEASURES WOULD BE IN KEEPING WITH INTERNATIONALLY RECOGNIZED STANDARDS ON HUMAN RIGHTS, AS ADVOCATED BY PRESIDENT CARTER. THE COMMENTARY CONCLUDED BY EXPRESSING THE HOPE THAT THE STATE OF SIEGE IN PARAGUAY MIGHT SOME DAY BE LIFTED.

6. AS NOTED IN ASUNCION 5265, PARAGUAYAN CRIMINAL PROCEDURES ARE MARKEDLY DIFFERENT FROM OUR OWN. THE TRIALS ARE USUALLY LENGTHY PROCEEDINGS, SOMETIMES LASTING FOR YEARS, AND ARE

FREQUENTLY INTERRUPTED AT VARIOUS STAGES FOR LONG PERIODS OF TIME. THERE IS LITTLE IN THE WAY OF ORAL TESTIMONY OR ARGUMENTATION, EXCPET AT THE OUTSET OF THE TRIAL WHEN THE JUDGE CONDUCTS A LENGTHY INTERROGATION OF THE ACCUSED. THEREAFTER, MOST OF THE EVIDENCE AND ARGUMENTS OF THE PROSECUTION AND DEFENSE ARE SUBMITTED TO THE JUDGE IN WRITTEN FORM FOR HIS CONSIDERATION IN DECIDING THE CASE. THUS THE TRIAL CONSISTS MAINLY OF THE JUDGE'S STUDY OF DOCUMENTS AND PAPERS. THE ENTIRE PROCEEDINGS TAKE PLACE IN WHAT WOULD CORRESPOND TO A JUDGE'S CHAMBERS IN THE US. THERE IS NO AMERICAN-STYLE COURTROOM WITH SPACE PROVIDED FOR SPECTATORS. NORMALLY ATTENDANCE AT THE PROCEEDINGS IS LIMITED TO THOSE WHO HAVE A DIRECT INTEREST IN THE CASE AND IS NOT OPEN TO THE GENERAL PUBLIC.
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7. THE FOREGOING WOULD OBVIOUSLY POSE DIFFICULTIES FOR ANY FOREIGNER WHO WISHED TO OBSERVE THE TRIALS, PARTICULARLY BECAUSE OF THE DISJOINTED NATURE OF THE PROCEEDINGS AND THE FACT THAT THERE WOULD BE LITTLE TO SEE AND HEAR. WE HAVE DISCUSSED THIS QUESTION WITH THE ATTORNEY GENERAL AND OTHER LEGAL AUTHORITIES WHO CONFIRM OUR UNDERSTANDING OF THE CRIMINAL TRIAL PROCESS, AND THE DIFFICULTIES OF OBSERVING IT. THE ATTORNEY GENERAL DID NOT, HOWEVER, RULE OUT THE POSSIBILITY OF INTERNATIONAL OBSERVERS. THE EMBASSY SUGGESTS THAT THOSE WHO WISH TO PURSUE THE POSSIBILITY OF OBSERVING THE PROCEEDINGS OR INVESTIGATE FURTHER THE PARAGUAYAN LEGAL SYSTEM, GET IN TOUCH WITH THE EMBASSY DIRECTLY. WE WILL BE PLEASED TO REFER THEM TO COMPETENT LEGAL AUTHORITIES, INCLUDING DEFENSE COUNSEL IN THE CASES IN QUESTION, OR TO OFFICIALS WITH POWER TO GRANT PERMISSION FOR THEM TO ATTEND THE PROCEEDINGS. THE EMBASSY IS SUBMITTING BY SEPTTEL A LIST OF LAWYERS DEFENDING POLITICAL PRISONERS AND SUGGESTS

INTERESTED PARTIES MAY WISH TO CORRESPOND WITH THEM DIRECTLY.

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